

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number _____

Env-Dw 1400

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 485-H:93. Federal Authority: n/a

4. Type of Action:

Adoption **X**Repeal Readoption Readoption w/amendment 5. Short Title: **Per and Polyfluoroalkyl Substances (PFAS) Remediation Loan Fund Program**

6. (a) Summary of what the rule says and of any proposed amendments:

The proposed rules implement RSA 485-H, Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs, by establishing criteria and procedures for administering the PFAS Remediation Loan Fund (PFAS RLF) program to assist certain public water systems with the cost of complying with state maximum contaminant levels (MCLs) for PFAS as established in RSA 485:16-e. Those entities wishing to apply for financial assistance in the form of a low-interest loan with the possibility of partial loan forgiveness and contingent reimbursement from the PFAS RLF would be required to complete the application process as defined and explained in the proposed rules. The process comprises two steps: an eligibility request to determine whether the project for which funding is sought meets the eligibility requirements of RSA 485-H and a final application containing complete information needed to complete the loan process. The rules also include requirements for disbursements; accounting; environmental review; design, construction, and implementation phases including consulting and construction contracts; and establish criteria and procedures for seeking waivers to the rules.

6. (b) Brief description of the groups affected:

The proposed rules affect owners of community water system and non-profit non-transient non-community water systems whose source water has an exceedance of the per- and polyfluoroalkyl substance (PFAS) MCLs and who wish to obtain a loan from the PFAS Remediation Loan Fund to finance compliance measures such as treatment or development of a new source.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Dw 1400 (also see specific part below)	RSA 485-H
Env-Dw 1408	RSA 541-A:22, IV

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7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Amy Rousseau	Title:	Administrator, PFAS Response Section, MtBE Remediation Bureau
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 848-1372
		Fax#:	(603) 271-7053
		E-mail:	Amy.E.Rousseau@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Monday, November 16, 2020**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, November 6, 2020 at 1:00 PM**

This will be a virtual public hearing. Please register at:

<https://attendee.gotowebinar.com/register/3295466556399265808>

Place:

After registering, you will receive a confirmation email containing information about joining the webinar.

If any problems, please contact Erin Holmes at 603-848-4259 or Erin.L.Holmes@des.nh.gov

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 20:081, dated 10/01/2020:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules establish procedures for certain public water systems to request an eligibility determination and apply for financial assistance from the Per and Polyfluoroalkyl Substances (PFAS) Loan Fund Program. The rules include requirements for accounting, environmental review, design, construction and implementation including consulting and construction contracts. The rules also establish criteria and procedures for seeking waivers to the rules. Costs associated with applying for a loan or financial assistance, are attributable to the proposed rules and would be incurred by owners of certain public water systems. Any remaining cost or benefit associated with the program is attributable to RSA 485-H which established the PFAS Loan Fund Program.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See #3 above. No cost or benefit to State citizens.

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C. To independently owned businesses:

There will be no cost or benefit to most independently owned businesses. Non-profit entities that own non-transient non-community water systems with source water contaminated by PFAS may incur costs associated with applying for a loan or financial assistance.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules establish the procedures for applying for low-interest loans from the PFAS RLF. Any political subdivision that chooses to apply for such a loan has necessarily voted to pay any costs of applying. The rules thus do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision and so do not violate Part I, Article 28-a of the N.H. Constitution.